

Federal Communications Commission

DA 00-2424

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Dillsboro and Rosman, North Carolina)¹

MM Docket No. 00-88
RM-9871

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 18, 2000

Released: October 27, 2000

By the Chief, Allocations Branch:

1. At the request of Sutton Radiocasting Corporation ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 15 FCC Rcd 8964 (2000), proposing the allotment of Channel 237A to Dillsboro, North Carolina, as its first local aural service. Comments were filed by the petitioner reiterating its intention to apply for the channel, if allotted, as well as a counterproposal filed by Chase Broadcasting, Inc. ("Chase"). Reply comments were filed by the petitioner and Chase.²

2. As stated in the Notice, Dillsboro is listed in the 1990 U.S. Census and attributed with a population of 98 people, without its own post office and its zip code (28779) is listed under the community of Sylva. Therefore, noting that the Commission may find that a population grouping of 95 people³ does not constitute a community for allotment purposes, petitioner was requested to furnish additional demographic information in order to determine whether it qualified as a community for allotment purposes. In response, petitioner states that Dillsboro is self governing with its own elected mayor, vice-mayor, five-person council and town clerk. With funds generated by property and business license taxes, Dillsboro provides community services such as street lighting and repairs and

¹ The community of Rosman has been added to the caption.

² Chase proposed the allotment of Channel 237A to Rosman, North Carolina, as its first local aural service. However, its counterproposal was not accepted for consideration in this proceeding as it specified a transmitter site 17.9 kilometers (11.1 miles) northwest of Rosman, too far to assume city-grade coverage of the community by a Class A FM facility pursuant to Section 73.315 of the Commission's Rules. Nevertheless, after the record closed herein, Chase withdrew its proposal stating that it no longer intended to pursue the proposed Rosman allotment. In compliance with Section 1.420(j) of the Commission's Rules, Chase also provides a certification that neither it nor its principals have received or will receive any consideration in exchange for the dismissal or withdrawal of its counterproposal. Since no other party filed comments expressing an intention to apply for the channel, if allotted, we will dismiss Chase's counterproposal. We will, however, address Chase's comments regarding the proposed transmitter site for Channel 237A at Dillsboro.

³ Petitioner states that the U.S. Census estimates that Dillsboro has a population of 137 people as of July 1, 1998, citing Excerpt from Population Estimates for Places: Annual Time Series, July 1, 1990 to July 1, 1998, US. Census Bureau (www.census.gov/population/estimates/metro-city/scts/SC98T_NC-DR.txt).

promotes tourism. Petitioner states that Dillsboro does have its own post office, staffed by the U.S. Postal Service, and zip code (28725). However, the post office only provides post box service. Therefore, if residents desire street delivery, they use a Sylva street address. In addition, petitioner states that the community has a number of churches, including Jarrett Memorial Baptist Church, organizations and over 80 retail establishments, many of which include Dillsboro in their names, including Dillsboro Inn, Dillsboro Smokehouse, Dillsboro Steak & Seafood, Dillsboro Chocolate Factory, Dillsboro Stone, Dillsboro Supply Co. and Dillsboro Taxi. According to the "Discover Dillsboro, North Carolina 2000" brochure provided by the petitioner, Dillsboro also has its own town hall and hosts community events such as the Dillsboro "Easter Hat Parade" and "Christmas Lights and Luminaires."

3. Chase, in its comments, questions whether a maximum Class A facility can be constructed at the transmitter site set forth in the Notice. It states that because of the mountainous terrain around the reference coordinates, an antenna 100 meters above average terrain requires the construction of a tower of 1,222 feet. However, given that the site is only 4.3 kilometers from the Jackson County Airport, it believes that approval by the Federal Aviation Administration is unlikely. In response, petitioner states that, within the allowable site area, there are other "perfectly suitable" sites available and thus there is no bar, either legally or technically, to the proposed Dillsboro allotment. Specifically, petitioner states that there is a high point known as "Websters Knob" (coordinates 35-15-56 NL; 83-09-16 WL) which is suitable for a transmitter site and would require an antenna of only 38 meters above ground in order to achieve an antenna height above average terrain of 150 meters. Therefore, it requests that the reference coordinates be modified to this location, which is 14.5 kilometers southeast of Dillsboro and would provide all of the community with 70 dBu. A staff engineering review of the alternate transmitter shows that the channel can be allotted in compliance with the Commission's minimum distance separation and other technical requirements.

4. Based on the information before us, we believe that Dillsboro qualifies as a community for allotment purposes. It has its own local government, churches, town hall, community events and numerous businesses. Therefore, we believe the public interest would be served by allotting Channel 237A to Dillsboro as its first local aural service. Channel 237A can be allotted to Dillsboro in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.5 kilometers (9 miles) southeast to avoid a short-spacing to Station WIKQ, Channel 235C, Greeneville, Tennessee, and Station WYFC, Channel 237A, Clinton, Tennessee.⁴

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 11, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

⁴ The coordinates for Channel 237A at Dillsboro are 35-15-56 NL; 83-09-16 WL.

CityChannel No.

Dillsboro, North Carolina

237A

6. A filing window for Channel 237A at Dillsboro will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the counterproposal filed by Chase Broadcasting, Inc., to allot Channel 237A to Rosman, North Carolina, IS DISMISSED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau